

Water Management Board
Notice of Public Hearing to Amend and Adopt Stream Fencing Rule

A public hearing will be held in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol Ave, Pierre, South Dakota, on December 9, 2015, at 10:00 a.m. Central Time, to consider amending and adopting Administrative Rule of South Dakota number 74:02:10:07 (see rule at <http://legis.sd.gov/Rules/DisplayRule.aspx?Rule=74:02:10:07>) which is a section of Chapter 74:02:10 entitled "Fences Crossing Navigable Streams." South Dakota Codified Law (SDCL) Chapter 43-17 allows fencing of navigable streams provided fences have a gate or opening permitting safe use of the stream and passage of boats, canoes, or other vessels, pedestrians, and snowmobiles. In addition, the law provides the opportunity for any person to file a petition to either add or delete a stream from the list of streams in which a gate or opening must be provided.

The effect of the rule will be to allow fences to be constructed without a gate across Firesteel Creek in Davison County. This proposed rule is brought to the Water Management Board by a petition filed pursuant to SDCL 43-17-39 by Gary Bussmus, 24973 404th Avenue, Mitchell SD. A copy of the petition is available at <http://denr.sd.gov/740210petition.pdf> or without charge from the address listed below. According to SDCL 43-17-39, the Department of Environment and Natural Resources (DENR) must submit this petition in the form of a proposed rule to the Water Management Board.

The reason for adopting the rule is to remove Firesteel Creek in Davison County from the list of streams where gates are required in fences across the streams pursuant to SDCL 43-17-38. The Water Management Board may adopt the rule to remove Firesteel Creek from the list of streams where gates are required, remove a portion of Firesteel Creek, or not adopt the rule.

Persons interested in presenting data, opinions, and arguments for or against the proposed rule may do so by appearing in person at the hearing or by sending them to South Dakota DENR, Water Rights Program, Joe Foss Building, 523 E Capitol Ave, Pierre, South Dakota 57501-3182. Material sent by mail must reach the Department of Environment and Natural Resources by December 8, 2015, to be considered. Comments can also be provided online at <http://denr.sd.gov/public>.

After the hearing, the board will consider all written and oral comments it receives on the proposed rules. The board may modify or amend a proposed rule at that time to include or exclude matters that are described in this notice.

Notice is further given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Department of Environment and Natural Resources at least 48 hours before the public hearing if you have special needs for which special arrangements must be made. The telephone number for making special arrangements is (605) 773-5559.

A copy of the proposed rule may be obtained from the DENR web site at <http://denr.sd.gov/public>; the state Open Government administrative rules page at <https://rules.sd.gov/default.aspx>; or without charge from:

South Dakota DENR
Water Rights Program
Joe Foss Building

523 E Capitol
Pierre, South Dakota 57501-3182

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